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SUBJECT: Pharmaceuticals IPR Update

11. (SBU) Summary: Following heavy lobbying by the local generics industry, the GOT is contemplating introduction of data exclusivity protection for pharmaceutical test data only in 2007 and even watering down patent protection, but, to our knowledge, no final decisions have been taken on these matters. In contacts with the Health and Foreign Ministries and the Turkish Patent Institute, we have stressed the importance of these issues in the bilateral economic relationship and have urged that the GOT comply with its WTO commitments. End Summary.

12. (SBU) Citing a leaked report prepared for the GOT's Board for the Evaluation of Economic Problems in the Pharmaceuticals Sector, U.S. pharmaceutical companies operating in Turkey contacted the Embassy in late August and early September to register strong concern about reports that the GOT intends to delay implementation of data exclusivity protection until 2007 and to water down patent protection for pharmaceuticals. The report followed discussions in late August between the GOT and local generics producers. At the same time, Eli Lilly representatives noted some progress in diminishing price discrimination against imported drugs, including the beginning of a dialogue with the Health Ministry on margins and ad hoc suspension of reference pricing for some drugs.

13. (SBU) Econoff and Econ Specialist raised these issues with Hayriye Mihcak, Director General for Pharmaceuticals at the Turkish Ministry of Health on September 9. Mihcak confirmed that an interministerial board was developing reports on data exclusivity, patent protection and pricing. These reports are to form the basis for a response to the European Union on these issues.

14. (SBU) Mihcak hesitated in discussing the contents of the reports until Econoff shared an English translation of the one concerning data exclusivity and patent protection. We emphasized that data exclusivity and patent protection were not only an EU-Turkey issue, but also WTO requirements for Turkey and of great interest to the United States. Econoff underlined that delays in implementing data exclusivity and any movement to degrade patent protection would be received very negatively by the USG and U.S. industry. He also noted that at least one key stakeholder - the research-based industry - had not been consulted in preparing the report. Mihcak responded that the report was not yet finalized, and that she would take our points into consideration in future interagency discussions on this issue.

15. (SBU) Mihcak said she regarded the current pricing system in pharmaceuticals to be inequitable and said the GOT was considering changes to it, but she declined to go into the specifics of this issue.

16. (SBU) Econoff raised these issues with Selim Sengun, President of the Turkish Patent Institute (TPI), on September 10. Sengun stated that the report on data exclusivity and patent protection represented the maximum demands of the generic industry, and that there was a fair chance that the GOT would not decide to fully implement these provisions. In interagency discussions, TPI's representative urged against weakening patent protection. He also pointed out that weakening Turkish patent protection would have limited effect since, in the near future, most pharmaceuticals patents would be

take effect on the basis of approvals made by European Patent Office. Sengun cautioned that local generics manufacturers constituted a strong lobby against IPR protections in its sector, one that apparently had the ear of the Health Ministry as well as other GOT agencies.

17. (SBU) Econ and Commercial Counselors also raised pharmaceuticals issues with MFA Deputy Director General for Bilateral Economic Affairs Mehmet Gucuk on September 12. Gucuk asked us to provide further details on these issues in writing, which Embassy will do in the near future. Edelman